

Dated: May 15, 1995.

**Robert I. Brauer,**

*Acting Advisory Committee Management Officer, Joint Board for the Enrollment of Actuaries.*

[FR Doc. 95-12210 Filed 5-17-95; 8:45 am]

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## DEPARTMENT OF JUSTICE

### Notice of Lodging a Final Judgment by Consent Pursuant to the Comprehensive Environmental Response Compensation and Liability Act (CERCLA)

Notice is hereby given that on May 11, 1995, a proposed consent decree in *United States v. ACF Industries, Inc.*, Civ. A. No. 2:95-0360, was lodged with the United States District Court for the Southern District of West Virginia. The complaint in this action seeks recovery of costs and injunctive relief under Sections 106 and 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), as amended by the Superfund Amendments and Reauthorization Act of 1986, Pub. L. 99-499, 42 U.S.C. §§ 9606, 9607(a). This action involves the ACF Industries Site near Eleanor, West Virginia, a property which the United States acquired by eminent domain in December 1989.

Under the proposed Consent Decree, AFC Industries Inc. will pay \$2,000,000 for costs incurred by the United States in performing certain response actions at the Site. The Decree also requires ACF Industries Inc. to perform certain response actions for the Site.

The Department of Justice will receive comments relating to the proposed consent decree for a period of thirty days from the date of publication of this notice. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044, and should refer to *United States v. ACF Industries, Inc.*, DOJ Reference No. 90-11-2-681.

The proposed consent decree may be examined at the Office of the United States Attorney for the Southern District of West Virginia, 500 Quarrier St., Room 3201, Charleston, West Virginia, offices of the U.S. Army Corps of Engineers Huntington District, 502 Eighth Street, Huntington, West Virginia 25701, and at the Consent Decree Library, 1120 "G" Street, NW, 4th Floor, Washington, DC 20005, (202) 624-0892. A copy of the proposed decree may be obtained in person or by mail from the Consent Decree Library at the address listed

above. In requesting a copy, please refer to the referenced case and number, and enclose a check in the amount of \$16.50 (25 cents per page reproduction costs), payable to the Consent Decree Library.

**Joel M. Gross,**

*Acting Section Chief, Environment Enforcement Section, Environmental and Natural Resources Division.*

[FR Doc. 95-12236 Filed 5-17-95; 8:45 am]

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## DEPARTMENT OF LABOR

### Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 95-36; Exemption Application No. D-09798, et al.]

### Grant of Individual Exemptions; Amended Profit Sharing Plan and Trust of Walker Products Co., Inc., et al.

**AGENCY:** Pension and Welfare Benefits Administration, Labor.

**ACTION:** Grant of individual exemptions.

**SUMMARY:** This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue

exemptions of the type proposed to the Secretary of Labor.

### Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

### Amended Profit Sharing Plan and Trust of Walker Products Co., Inc. (the P/S Plan)

Located in Lincoln, Kansas

[Prohibited Transaction Exemption 95-36; Exemption App. No. D-09798]

### Exemption

The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale of certain farm land (the Land) by the P/S Plan to Mr. Lloyd Walker, a 33 1/3% shareholder of the P/S Plan sponsor and a party in interest with respect to the P/S Plan, provided that the following conditions are satisfied:

(1) The sale will be a one-time cash transaction;

(2) The P/S Plan will receive the fair market value of the Land as determined at the time of the sale by an independent, qualified appraiser;

(3) The P/S Plan will pay no expenses associated with the sale; and

(4) The terms of this transaction are at least as favorable to the P/S Plan as an arms-length transaction between unrelated parties.

For a complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on March 20, 1995 at 60 FR 14792/14793.

**FOR FURTHER INFORMATION CONTACT:** Ekaterina A. Uzlyan of the Department, telephone (202) 219-8883. (This is not a toll-free number.)

### The Travelers Separate Account "R" (SAR)

Located in Hartford, Connecticut

[Prohibited Transaction Exemption 95-37; App. No. D-09827]

### Exemption

The restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and

the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the past lease (the Lease) of space in an office building located in Cedar Knolls, New Jersey (the Building) from December 22, 1993 until June 24, 1994 by SAR to The Travelers Insurance Company (Travelers), a party in interest with respect to employee benefit plans invested in SAR, provided that the following conditions were satisfied:

(a) All terms and conditions of the Lease were at least as favorable to SAR as those which SAR could have obtained in an arm's-length transaction with an unrelated party at the time the Lease was executed;

(b) The rent paid by Travelers to SAR under the Lease was not less than the fair market rental value of the office space;

(c) LaSalle Partners (LaSalle), acting as a qualified, independent fiduciary for SAR during the time that the Building was owned by SAR, reviewed all terms and conditions of the Lease prior to the transaction, as well as any subsequent modifications to the Lease, and determined that such terms and conditions would be in the best interests of SAR at the time of the transaction;

(d) LaSalle represented the interests of SAR for all purposes under the Lease as a qualified, independent fiduciary for SAR, monitored the performance of the parties under the terms and conditions of the Lease, and took whatever action was necessary to safeguard the interests of SAR with respect to the Lease during the time that the Building was part of SAR's portfolio; and

(e) Travelers pays to all of SAR's contractholders, upon final liquidation of the properties held by SAR, amounts necessary to reimburse SAR for expenses incurred in connection with the tenant improvements made to the office space leased to Travelers prior to the sale of the Building (i.e., \$1,363,581), as well as all other amounts required to be paid to SAR's contractholders, pursuant to the terms of the Settlement Agreement arising from *The Travelers Insurance Company v. Allied-Signal, Inc. Master Pension Trust, et al.* (Civil No. H-90-870-AHN, USDC D Conn).

**EFFECTIVE DATE:** This exemption is effective for the period from December 22, 1993 until June 24, 1994.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption (the Proposal) published on January 18, 1995, at 60 FR 3662.

**NOTICE TO INTERESTED PERSONS:** The applicant represents that some of the employee benefit plans invested in SAR did not receive notice of the pendency of the proposed exemption within the time period specified in the Proposal. The applicant states that these plans were subsequently provided with a separate notice and a copy of the Proposal on or before March 17, 1995. Such plans were advised by the applicant in the separate notice that they had until April 17, 1995 to comment and/or request a hearing on the Proposal. No comments or hearing requests were received by the Department.

**FOR FURTHER INFORMATION CONTACT:** Mr. E.F. Williams of the Department, telephone (202) 219-8194. (This is not a toll-free number.)

**Law Offices of Bryson and Berman, P.A. Employees' Pension Plan and Trust (Pension Plan) and Law Offices of Bryson and Berman, P. A. Employees' Profit Sharing Plan and Trust (P/S Plan, collectively; the Plans)**

Located in Miami, Florida  
[Prohibited Transaction Exemption 95-38;  
Exemption App. Nos. D-09884 and D-09885]

#### Exemption

The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the sale by the two individual accounts (the Accounts) in the Plans of Rodney W. Bryson of two adjacent parcels of vacant land (Lots 3 and 4, collectively; the Lots) to Mr. Rodney Bryson (Mr. Bryson), a trustee of the Plans and a party in interest with respect to the Plans; provided that the following conditions are satisfied:

(a) The sale will be a one-time cash transaction;

(b) The Accounts in this transaction will receive the current fair market value of the Lots established at the time of the sale by an independent qualified appraiser;

(c) The Accounts will pay no expenses associated with the sale; and

(d) The terms of this transaction are at least as favorable to the Accounts as an arm's-length transaction between unrelated parties.

For a complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on March 13, 1995 at 60 FR 13472/13473.

**FOR FURTHER INFORMATION CONTACT:** Ekaterina A. Uzlyan of the Department, telephone (202) 219-8883. (This is not a toll-free number.)

#### General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application are true and complete and accurately describe all material terms of the transaction which is the subject of the exemption. In the case of continuing exemption transactions, if any of the material facts or representations described in the application change after the exemption is granted, the exemption will cease to apply as of the date of such change. In the event of any such change, application for a new exemption may be made to the Department.

Signed at Washington, D.C., this 12th day of May, 1995.

**Ivan Strasfeld,**

*Director of Exemption Determinations,  
Pension and Welfare Benefits Administration,  
Department of Labor.*

[FR Doc. 95-12183 Filed 5-17-95; 8:45 am]

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